

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

JUN 8 1999

Mr. Scott Kuhn
 Director of Regulatory Communications
 Safety-Kleen Corp.
 1301 Gervais Street
 Suite 300
 Columbia, SC 29201

Dear Mr. Kuhn:

This letter is in response to your letter of April, 1999 to Ms. Susan Hazan of the Environmental Assistance Division. In your letter you listed several questions that you had regarding the PCB Disposal Amendments which were published in the June 29, 1998, Federal Register and became effective August 28, 1998. Your questions and EPA's responses are listed below.

1. **Can your customer store drained electrical equipment and its drained fluids onsite indefinitely so long as his intent is to reuse them? Can the equipment and/or fluid be legitimately returned to service?**

Under §761.35, you may store for reuse drained electrical equipment that is in operable condition. You may store the equipment indefinitely in a storage unit described in §761.35(c). You may store the equipment outside a storage unit described in §761.35(c) for up to five years. Different rules apply to the drained fluids. You may only store dielectric fluid containing ≥ 50 ppm PCBs used for servicing transformers in a storage unit complying with §761.65 (see §761.30(b)(2)(vi)).

The requirements at §761.30(a)(2) allow pieces of electrical equipment to be serviced by draining and capturing fluids and returning them to the serviced unit for reuse. Servicing of electrical equipment is intended to result in an operable unit, i.e. a unit containing its dielectric fluid..

2. **Does the EPA plan on implementing an "amnesty program" which would encourage**

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The one year storage for disposal time limit begins when a conscious decision to dispose of a material is made by the owner of the PCBs. Any change from this provision requires written approval from the EPA's Office of Enforcement and Compliance Assurance. You may direct your inquiry to:

Mr. Steven A. Herman, Assistant Administrator
Mail Code 2201A
Office of Enforcement and Compliance Assurance
US Environmental Protection Agency
401 M Street, SW
Washington DC 20460

3. Can ash containing >2 ppm PCBs from an incinerator approved for disposing of PCBs under §761.70 be disposed of in a RCRA Subtitle C landfill as PCB bulk product waste or PCB remediation waste?

No. Ash from a PCB incinerator does not meet the requirements as stated in the definition of PCB bulk product waste or PCB remediation waste. The PCB incinerator ash is regulated under an approval issued under §761.70. This approval describes the destruction efficiency limits for that unit (usually <2 ppm PCBs). Your facility must meet those efficiency limits in order for the waste to be considered "disposed of" under the requirements of TSCA. Once the incinerator ash has met the destruction efficiency limits under §761.70, the material is considered disposed of for purposes of TSCA and can be placed in a disposal facility approved to accept such waste, i.e, a RCRA Subtitle C landfill.

You may contact Matt Hale in the Office of Solid Waste, Permits and State Programs Division (703 308 8895) to discuss the RCRA Land Disposal Restrictions and the Universal Treatment Standard for PCBs.

We hope this letter has cleared up any uncertainty you may have had concerning the PCB Disposal Amendments. If you have any further questions, please call Laura Casey at (202) 260-1346.

Sincerely,



John W. Melone, Director
National Program Chemical Division

cc: Mr. Steven Herman, Office of Enforcement and Compliance Assurance
Mr. Jesse Baskerville, Toxics and Pesticides Enforcement Division, OECA
Matt Hale, OSW, PSPD (5303W)



Susan B. Hazen, Director
Environmental Assistance Division (7408)
Office of Pollution Prevention and Toxics
Room 543B
U.S. Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

Dear Ms. Hazen:

Safety-Kleen owns and operates a number of facilities which treat, store, and dispose of PCB's and PCB contaminated wastes. We are currently evaluating how the Disposal of Polychlorinated Biphenyl Final Rule ("PCB Mega-Rule") that was published on June 29, 1998 and became effective August 28, 1998 affects our existing and future business in this waste market.

In performing this evaluation, a number of questions surfaced for which we are requesting guidance from the Agency.

Question 1:

A customer has electrical transformers or other equipment which contains fluids that have PCB's at concentrations greater than 50 ppm. The customer drains the fluid from the equipment and stores it onsite in a drum or other container. The customer intends on using the fluid again in the original piece of equipment or in other similar pieces of equipment. The original equipment is also separately stored for eventual reuse.

Can the customer legitimately store this material onsite indefinitely so long as his intent is to reuse it? When, if ever, does the out of service date begin for the fluid? Can the equipment and/or fluid legitimately be returned to service? The 1994 Q&A document appears to answer these questions for the equipment, but it is unclear whether the same principles would apply for the fluid once it is removed from the equipment. Section 761.35 of the June 29, 1998 rule allows PCB Articles to be stored for reuse for up 5 years after the date the article was originally removed from use. It is not clear, however, whether this same 5 year period would be applicable to PCB fluids that are removed from equipment and are intended to be reused.



Question 2:

It has come to our attention that there may be many small industries or commercial entities that have small quantities of PCB fluids onsite that are not going to be reused and have passed the one year out of service date. We speculate that these entities have not disposed of the PCB's because of the relatively (for them) high cost for disposal charged by the commercial waste management industry. We believe that these entities may be reluctant to contact the commercial treaters since they would have to acknowledge that the out of service data has long passed and that they may be subject to Agency enforcement. We believe that it is the country's and EPA's interests if these PCB's were taken out of storage and properly disposed. Does the EPA plan on implementing an "amnesty program" which would encourage these small entities to send their PCB's to proper disposal and provide assurance that enforcement will not be imposed? This may be a project that Safety-Kleen and EPA could work on jointly.

Question 3:

The June 29, 1998 PCB rule allows the disposal of certain PCB bulk product wastes and PCB remediation wastes having concentrations of PCB's > 50 ppm in hazardous waste landfills permitted under RCRA Subtitle C. If these types of PCB wastes are not considered hazardous wastes under 40 CFR 261, then there is no regulatory limit to the concentration of PCB's which could be land disposed in a Subtitle C landfill. If, however, the bulk product or remediation PCB waste was also considered a characteristic hazardous waste, then the waste would be subject to the RCRA Land Disposal Restrictions regulations contained in 40 CFR Part 268. In this case, the maximum PCB concentration that the waste could contain and still be land disposed would be 10 ppm (the Universal Treatment Standard for PCB's)

A number of the incinerators operated by Safety-Kleen that burn PCB's have terms in their PCB authorizations which specify that the PCB content of the incineration residues must be less than 2 ppm (the quantifiable level) before the residue can be land disposed. As can be seen, there is great disparity between the various requirements for disposal of PCB's in RCRA Subtitle C landfills. If the Agency believes that disposal of non-hazardous waste containing PCB's at any concentration in Subtitle C landfills does not pose unreasonable risk, how does the restriction of 10 ppm in landfilled hazardous waste continue to be justified? Does the Agency have plans to revisit the Universal Treatment Standard for PCB's to bring it into alignment with the TSCA regulations? Given the Agency's position on PCB disposal in RCRA Subtitle C landfills, does the limit of 2 ppm in incinerator PCB authorizations continue to be justified? Can facilities with PCB authorizations which contain the 2 ppm restriction modify the authorization to allow them to land dispose of residues containing > 2 ppm PCB's?

I appreciate any help you may be in addressing our questions concerning the new PCB final rule. If you have any questions or need additional information, please contact me at (803) 933-6431 or by email at [Skuhn@ Safety-Kleen.com](mailto:Skuhn@Safety-Kleen.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Kuhn", with a long horizontal flourish extending to the right.

Scott Kuhn
Director of Regulatory
Communications